



Accountability for Online Firearms Marketplaces Act

The Problem: For more than a decade, prospective gun purchasers have been able to rely on a growing market for online firearms sales to anonymously purchase guns. The largest online firearms marketplace is Armslist, the so-called “Craigslist for guns” which describes itself as the “largest free gun classifieds on the web.” Other online firearms marketplaces include GunBroker, GunAuction, GunsAmerica, and TexasGunTrade.

These online marketplaces can evade basic background check laws by allowing unlicensed sellers to sell guns to anyone, without a background check, no questions asked. As a result, Armslist and its competitors have become rife with illegal and dangerous gun sales. Unlicensed sellers comprise as many as three in four sellers on Armslist alone. One NYPD investigation found that guns used in four murders and one suicide could be traced to a sale on Armslist.

Remarkably, courts have found that Armslist enjoys sweeping immunity under Section 230 of the Communications Decency Act (CDA). This interpretation extends far beyond Congress’s intent in granting Section 230 to encourage platforms to act as Good Samaritans to stop online abuse.

Example: Daniel v. Armslist: In *Daniel v. Armslist*, Radcliffe Haughton’s estranged wife obtained a restraining order that banned him from purchasing a firearm. At a court hearing for the restraining order, Haughton’s wife testified that for over a decade, Haughton had abused her by beating her, choking her until she could not breathe, and “terrorizing [her] every waking moment.” In violation of the restraining order, Haughton purchased a NP-40 semiautomatic pistol and three fourteen-round magazines from an unlicensed seller on Armslist. He later used that gun to murder his estranged wife and two of her co-workers, in front of their daughter.

Haughton’s daughter filed a civil lawsuit against Armslist alleging, among other things, that Armslist facilitated unlawful conduct. Without considering the merits of her claims, the Wisconsin Supreme Court dismissed the case under Section 230. The court’s decision swept so broadly as to cover websites intentionally designed to encourage and facilitate firearms trafficking. The Supreme Court denied review. Following the decision, at least one other court has dismissed a claim against the company based on Section 230.

The Solution: The bill makes clear that online firearms marketplaces do not enjoy immunity under Section 230. Under the bill, courts will be forced to contend with the merits of cases like *Daniel v. Armslist*, and the responsibilities of online firearms marketplaces under current law, rather than dismissing all such cases outright under Section 230. As a result of this law, online firearms marketplaces will no longer enjoy sweeping, blanket immunity—a change which will prevent dangerous persons from evading background checks and other gun safety measures.

Endorsements: Everytown for Gun Safety, Brady, Giffords, Newtown Action Alliance and Sandy Hook Promise.